S. HRG. 99-892

NOMINATION OF THOMAS B. WELLS

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON THE

NOMINATION OF

THOMAS B. WELLS TO BE A JUDGE ON THE UNITED STATES TAX COURT

SEPTEMBER 23, 1986

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

65-140 O WASHINGTON : 1986

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

S361-5

COMMITTEE ON FINANCE

BOB PACKWOOD, Oregon, *Chairman*

ROBERT J. DOLE, Kansas	RUSSELL B. LONG, Louisiana
WILLIAM V. ROTH, JR., Delaware	LLOYD BENTSEN, Texas
JOHN C. DANFORTH, Missouri	SPARK M. MATSUNAGA, Hawaii
JOHN H. CHAFEE, Rhode Island	DANIEL PATRICK MOYNIHAN, New York
JOHN HEINZ, Pennsylvania	MAX BAUCUS, Montana
MALCOLM WALLOP, Wyoming	DAVID L. BOREN, Oklahoma
DAVID DURENBERGER, Minnesota	BILL BRADLEY, New Jersey
WILLIAM L. ARMSTRONG, Colorado	GEORGE J. MITCHELL, Maine
STEVEN D. SYMMS, Idaho	DAVID PRYOR, Arkansas
CHARLES E. GRASSLEY, Iowa	

WILLIAM DIEFENDERFER, *Chief of Staff*
WILLIAM J. WILKINS, *Minority Chief Counsel*

CONTENTS

NOMINEE

	Page
Thomas B. Wells	12

PUBLIC WITNESS

Hon. Mack Mattingly, a U.S. Senator from Georgia	11

ADDITIONAL INFORMATION

Committee press release	1
Prepared statement of Senator Mack Mattingly	2
Biographical of Thomas B. Wells	4

NOMINATION OF THOMAS B. WELLS TO BE A JUDGE ON THE U.S. TAX COURT

TUESDAY, SEPTEMBER 23, 1986

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 9:30 a.m., in room SD-215, Dirksen Senate Office Building, the Honorable Bob Packwood (chairman) presiding.

Present: Senators Packwood, Long, and Baucus.

[The press release announcing the hearing, a prepared statement of Senator Mack Mattingly, and the biographical sketch of Thomas Buell Wells follows:]

[Press Release No. 86-079, Sept. 19, 1986]

FINANCE COMMITTEE TO REVIEW THOMAS B. WELLS' NOMINATION

Chairman of the Senate Finance Committee, Senator Bob Packwood (R-Oregon) announced today that the Committee will hold a hearing to review the nomination of Thomas B. Wells to be a Judge of the United States Tax Court.

The hearing will be held on Tuesday, September 23, 1986, at 9:30 a.m., in room SD-215 of the Dirksen Senate Office Building.

Mr. Wells has been an attorney with the law firm of Shearer and Wells since 1982. He has devoted his law practice tc the field of Federal taxation. He has also served as an attorney in the law firms of Dillard and Shearer (1981-1982), Hurt, Richardson and Garner (1979-1981), and Redfern, Butler and Morgan (1978-1979).

Mr. Wells received his Bachelors of Science degree from Miami University in Ohio, his Doctor of Law from Emory University in Georgia and his Masters of Law in taxation from New York University. Mr. Wells is from Atlanta, Georgia.

STATEMENT OF SENATOR MACK MATTINGLY
SENATE FINANCE COMMITTEE
SEPTEMBER 23, 1986

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, IT IS A PLEASURE FOR ME TO APPEAR BEFORE THE COMMITTEE TO PARTICIPATE IN THE INTRODUCTION OF MR. THOMAS B. WELLS, WHO HAS BEEN NOMINATED TO BE A JUDGE OF THE UNITED STATES TAX COURT. MR. WELLS IS ONE OF THE OUTSTANDING TAX LAWYERS IN THE STATE OF GEORGIA AND IT IS WITHOUT HESITATION THAT I RECOMMEND HIM TO YOU TODAY.

TOM WELLS HAS DISTINGUISHED HIMSELF BOTH ACADEMICALLY AND PROFESSIONALLY. HE HOLDS AN UNDERGRADUATE DEGREE FROM MIAMI OF OHIO AND LATER RECEIVED HIS LAW DEGREE FROM EMORY UNIVERSITY IN ATLANTA. FOLLOWING SEVERAL YEARS OF PRIVATE LAW PRACTICE, MR. WELLS EARNED A MASTER OF LAW DEGREE IN TAXATION FROM NEW YORK UNIVERSITY, WHICH IS GENERALLY RECOGNIZED THROUGHOUT THE COUNTRY AS ONE OF THE BEST GRADUATE TAX PROGRAMS AVAILABLE.

TOM WELLS HAS BEEN AN ACTIVE AND WELL-RESPECTED TAX PRACTITIONER IN THE CITY OF ATLANTA SINCE 1978. HIS PRESENT AFFILIATION IS AS A SENIOR PARTNER IN THE PROFESSIONAL CORPORATION OF SHEARER & WELLS. HE IS INVOLVED IN LEADERSHIP

ACTIVITIES OF VARIOUS BAR ORGANIZATIONS AND HAS SERVED AS DIRECTOR OF BOTH THE ATLANTA ESTATE PLANNING COUNCIL AND THE NORTH ATLANTA TAX COUNCIL. HE IS ALSO ACTIVE IN NUMEROUS CIVIC, BUSINESS, AND NEIGHBORHOOD ORGANIZATIONS.

MR. CHAIRMAN, I BELIEVE TOM WELLS IS EXACTLY THE TYPE OF INDIVIDUAL WE NEED ON THE BENCH OF THE UNITED STATES TAX COURT. HE HAS OUTSTANDING PROFESSIONAL QUALIFICATIONS, HE IS A MAN OF EXCELLENT INTEGRITY AND CHARACTER, AND HE POSSESSES THE NECESSARY JUDICIAL TEMPERAMENT FOR THE POSITION. I HIGHLY RECOMMEND HIM AND I AM HAPPY TO BE ABLE TO INTRODUCE HIM TO YOU TODAY.

A. Biographical:

1. Name: Thomas Buell Wells

2. Address: 181 Peachtree Battle Ave., N.W.
Atlanta, Georgia 30305

3. Date and Place of Birth: July 2, 1945, Akron, Ohio

4. Marital Status: Mary Josephine Graham, married: April 6, 1974

5. Names and Ages of Children: Mary Kathryn Wells, age 6
Duncan Graham Wells, age 3

6. Education:

New York University Washington Square New York, N. Y.	1977 to 1978	Master of Laws (in Taxation)
Emory University North Decatur Rd. Atlanta, Georgia	1972 to 1973	Doctor of Law
Ohio Northern University Ada, Ohio	1970 to 1972	Transferred to Emory
Miami University Oxford, Ohio	1963 to 1967	Bachelor of Science

7. Employment Record:

10/82 to Present	Shearer & Wells, P.C. 3333 Peachtree Rd., N.E. Suite 620 Atlanta, Georgia 30326	Attorney
1/81 to 10/82	Dillard & Shearer, P.C. 1500 Century Blvd. Atlanta, Georgia 30345	Attorney
5/79 to 1/81	Hurt, Richardson, Garner, Todd & Cadenhead 1100 Harris Tower Atlanta, Georgia 30303	Attorney

(7. Employment record continued):

6/78 to 5/79	Redfern, Butler & Morgan 1800 Gaslight Tower Atlanta, Georgia 30303 (merged into Hurt, Richardson et. al.)	Attorney
8/77 to 6/78	Attend New York University Washington Square New York, N. Y.	Student
12/73 to 8/77	Graham & Wells, P.C. 408 Church Street Vidalia, Georgia	Attorney
6/73 to 12/73	Moffett & Henderson 2800 First National Bank Building Atlanta, Georgia	Attorney
6/72 to 9/72	Cobb County District Attorney's Office Cobb Co. Courthouse Marietta, Georgia	Summer Intern
6/71 to 9/71	Navarre, Rizor, Dapore & Allen, Attorneys Lima, Ohio	Law Clerk
6/67 to 6/70	U.S. Navy Morocco & Vietnam	Supply Corps Officer

8. Government Experience:

Cobb County District Attorney's Office
Cobb County Courthouse
Marietta, Georgia
Summer Intern - June 1972 - September 1972

County Attorney, Toombs County, Georgia
Toombs County Courthouse
Lyons, Georgia
Part-time - January 1977 - August 1977

City Attorney, City of Vidalia, Georgia
Part-time - June 1976 - August 1977

Attorney, Vidalia Board of Education
Vidalia, Georgia
Part-time - June 1976 - August 1977

U.S. Naval Reserve, Active Duty
July 1967 - June 1970, Lieutenant, Supply Corps
Saigon, Vietnam and Sidi Yahia, Morocco

Neighborhood Planning Unit B
City of Atlanta (Zoning Organization)
Business Representative

9. Memberships:

Name and Address	Type and Dates	Office Held
State Bar of Georgia 84 Peachtree St. Atlanta, Georgia	Bar Assoc. 1973 - Present	Board of Govenors (1976-77); Editorial Board, GA State Bar Journal
American Bar Assoc. 750 Lake Shore Dr. Chicago, Illinois	Bar Assoc. 1973 - Present	Committees
Atlanta Bar Assoc. 606 Equitable Bldg. Atlanta, Georgia	Bar Assoc. 1978 - Present	Editor, Atlanta Lawyer
Atlanta Estate Planning Council 3 Piedmont Center Suite 315 Atlanta, Georgia	Tax Professionals 1982 - Present	Director
Atlanta Tax Forum Suite 400, 3333 Peachtree Rd., Atlanta, Georgia 30326	Tax Professionals 1985 - Present	
North Atlanta Tax Council, Inc. 6160 Peachtree-Dunwoody Rd., Suite 100 Atlanta, Georgia	Tax Professionals 1984 - Present	Director & Secretary

(9. Memberships Continued):

Lawyers Club of Atlanta Commerce Bldg. Atlanta, Georgia	Attorneys (Professional) 1981 - Present	
Northside Kiwanis Club of Atlanta First Presbyterian Church, 17th & Peachtree, Atlanta, Georgia	Civic, 1979 - Present	Director
Vidalia Kiwanis Club Southern Cafe Vidalia, Georgia	Civic, 1974 to 1977	President & Director
Garden Hills Civic Association, Inc. Rumson & Pinetree Atlanta, Georgia	Neighborhood, 1978 - 1983	President & Director
Garden Hills Pool & Park Association, Inc. Rumsom & Pinetree Atlanta, Georgia	Recreation, 1982 - 1983	
Peachtree Battle Alliance E. Rivers School Peachtree Battle Ave., Atlanta, Georgia	Neighborhood, 1983 - Present	Director
Trinity School Parents Association Northside Drive Atlanta, Georgia	PTA, 1983 - Present	
Buckhead Business Association Campbell Stone Apts. Atlanta, Georgia	Civic, 1983 - Present	Vice Pres.
Neighborhood Planning Unit B Atlanta City Hall	Civic, 1986 - Present	

(9. Memberships continued):

Vidalia Country Club Loop Road Vidalia, Georgia	Social, 1974 - 1977	Director
Roxboro Valley Swim Club 1044 Roxboro Drive Atlanta, Georgia	Recreation, 1979 - 1983	
Confrerie de la Chaine des Rotisseurs 300 East 59th St. Suite 2406 New York, N. Y. 10022	Food Connoisseurs 1985 - Present	
Buckhead Fifty Club 3905 Powers Ferry Road, Atlanta, Georgia	Civic, 1984 - Present	
Boy Scouts Troop 307	Civic, 1952 - 1956	all ranks all offices
National Eagle Scout Association P.O. Box 2325 Irving, Texas 75038	Boy Scout Assoc. 1974 - Present	
Sigma Phi Epsilon Fraternity, Ohio Eta Chapter Church Street Oxford, Ohio	Fraternal, 1964 - 1967	
Phi Alpha Delta Fraternity Ohio Northern Univ. Ada, Ohio and Emory Univ., N. Decatur Rd. Atlanta, Georgia	Fraternal, 1970 - 1973	Clerk
Miami University Mens Glee Club Oxford, Ohio	Choral, 1963 - 1965	

(9. Memberships continued):

Vidalia Community Chorus Vidalia, Georgia	Choral 1975 - 1977
High Museum of Art Atlanta, Georgia	Museum, 1980 - Present
Atlanta Symphony Associates Atlanta, Georgia	Symphony, 1980 - Present

10. Political Affiliations and Activities:

Organizations:

Toombs County Republican Party (1974-1977);
Ford/Dole Campaign Committee Chairman, Toombs County, Ga., 1976
Georgia State Republican Party (120 Club Member 1980-present; member, State Committee 1980 - present);
Fulton County Republican Party (Circle R Member 1981-present); member, County Committee
Delegate to Fulton County GOP Convention (1981-1985);
Delegate to Georgia State GOP Convention (1981-1985);
Chairman, 25th House District, GOP (1982 - Present);
Member, Georgia State GOP Committee (1983-present);
Member, State GOP, Permanent Resolutions Committee (1985 - Present)
Co-Chairman - John Lupton Campaign Committee - 25th House District Representative (1980, 1982 and 1984);
Program Co-Chairman - Georgia Tribute to the President - Friends of Mattingly fund raiser (June, 1985).
Georgia Republican Foundation (1986)

(10. Political Affiliations continued):

Contributions:	Amount	Year
Friends of Mattingly	$1,300	1986
Georgia State Republican Party	$1,000	1986
Fulton County Republican Party	$ 120/yr.	1981-1986
Georgia Republican Party	$ 120/yr.	1980-1985
John Lupton Campaign Committee	$ 300	1982
	$ 35	1986
Tom Lowe for Fulton County Commission Campaign Committee	$ 100	1986
Dave Sellers Campaign Committee (Republican Candidate for 7th Congressional District, Ga.)	$ 100	1984
Bob Bell for Governor (Republican Candidate)	$ 100	1982
Toombs County Republican Party	$ 50	1976-1977

11. Honors and Awards:

Ashcraft Scholarship, Ohio Northern University
Managing Editor, Ohio Northern University Law Review
Dean's List, Miami University
Distinguished President's Award, Kiwanis International
Joint Service Commendation Medal for meritorious service in Saigon, Vietnam, U.S. Navy

12. Published Writings: None

The CHAIRMAN. The hearing will come to order, please.

This morning we have a hearing and, will hopefully, be able to send out the nomination of Thomas B. Wells as a judge on the U.S. Tax Court. Mr. Wells is here today with his wife, Mary Jo, and with Senator Mattingly who is going to introduce him.

And, Senator, if you and Mr. Wells are ready, we are ready to start.

STATEMENT OF HON. MACK MATTINGLY, A U.S. SENATOR FROM THE STATE OF GEORGIA

Senator MATTINGLY. Thank you very much, Mr. Chairman, and other members of the committee. It is really a pleasure for me to appear before the committee to participate in the introduction of Mr. Thomas B. Wells, who has been nominated to be a judge of the U.S. Tax Court.

Mr. Wells is one of the outstanding tax lawyers in the State of Georgia and it is without hesitation I recommend him to you both here today.

Tom Wells has distinguished himself both academically and professionally. He holds an undergraduate degree from Miami of Ohio, and later received his law degree from Emory University in Atlanta.

Following several years of law practice, Mr. Wells earned a masters of law degree in taxation from New York University, which is generally recognized throughout the country as one of the best graduate tax programs available.

Tom Wells has been really an active and well respected tax practitioner in the city of Atlanta since 1978. He has a present affiliation as a senior partner in the professional corporation of Shearer & Wells. He is involved also in the leadership activities of various bar organizations and has served as director of both the Atlanta Estate Planning Council and the North Atlanta Tax Council. He is also active in numerous civic business and neighborhood organizations.

Mr. Chairman, and distinguished ranking member of the committee, I believe Tom Wells is exactly the type of individual we need on the bench of the U.S. Tax Court. He has outstanding professional qualifications. He is a man of excellent integrity and character and he possesses the necessary judicial temperament for the position.

So I come before you today and recommend him very highly. And I am very happy to introduce him to probably the two most distinguished leaders on Capitol Hill, Tom, so you have gotten the double barrel here this morning from two of the most esteemed Senators on Capitol Hill.

The CHAIRMAN. We don't normally ask him difficult questions until after he is on the court, and he has made some decision that we don't like. Then we bring him back and say, why did you make that tomfool decision? How did you come to that conclusion when our intent was so clear? And, of course, anyone who looks at the current tax bill knows that it is a model of absolute clarity and everyone can understand exactly what it is. [Laughter.]

Senator MATTINGLY. That's right.

The CHAIRMAN. I would expect no provision would ever reach the Tax Court.

Senator MATTINGLY. This new tax bill will be full of mirrors. [Laughter.]

The CHAIRMAN. Senator Long.

Senator LONG. Let me just ask you about your background a little bit, Mr. Wells.

I see here that you attended New York University. What did you do, while you were practicing law you went back and specialized in and took a course in tax law?

STATEMENT OF THOMAS B. WELLS

Mr. WELLS. Yes, sir.

Senator LONG. Were you practicing much tax law prior to that time?

Mr. WELLS. Yes, sir.

Senator LONG. So since you were practicing tax law quite a bit, you decided you ought to specialize in it. Was that the idea?

Mr. WELLS. That's right.

Senator LONG. I see.

The CHAIRMAN. Russell, I might add that I went to New York University Law School undergraduate. They have had their graduate tax law school for almost 40 years now. It is very common for people to practice, 2, 3, or 4 years in tax, and then go for a year to New York University Law School and get a masters of tax law.

Senator LONG. I am aware of that, Mr. Chairman.

Now, let me ask you, did they give you any grades there or just teach you some courses at New York University Law School?

Mr. WELLS. They give you grades, sir.

Senator LONG. Where do you stand in your class?

Mr. WELLS. I don't believe they ranked the classes.

Senator LONG. They didn't rank them. Well, what kind of grades did they give you?

Mr. WELLS. Good grades. [Laughter.]

Senator LONG. I didn't ask for that sort of a vague answer. I assume you passed. Could you be a little more definite about that? Was it A's, B's, or what, 3.1 out of a possible 4.0? What grades were they?

Mr. WELLS. My grades were around 3.0.

Senator LONG. Out of a possible 4.0?

Mr. WELLS. Out of 4.0, yes, sir.

Senator LONG. I see. Well, that is good enough. [Laughter.]

That will qualify you.

Now Senator Packwood touched on this subject and it has been a matter of bewilderment to me. If a person is really qualified for the job as a practitioner, I keep wondering why would he take it. I would assume that you are making a great deal more money out there in private practice than you will make in this job. Is that correct?

Mr. WELLS. Yes, sir.

Senator LONG. Could you give me some relationship? I don't need an exact figure. But I mean in relative terms, what this job pays? About what percentage of what you will make here out of what you were making before?

Mr. WELLS. It depends on how good a year our law firm has had, Senator.

Senator LONG. Well, compared to your last year, let's say.

Mr. WELLS. It is probably 60 to 80 percent, somewhere near that.

Senator LONG. Well, you will take a very substantial pay cut that comes with the job.

Mr. WELLS. Yes, sir.

Senator LONG. And you don't have the prospects or increases that you would get if you were out there in private practice either.

Mr. WELLS. That is right, sir.

Senator LONG. Now I have been constantly dismayed about the fact that Senators don't have the guts to vote themselves a pay raise and it hurts everybody else in Government. I won't say everybody. It hurts people like you. It hurts the district judges, it hurts the top officers in the military, people in a similar place, position, in Government.

Have you made your plans to live on substantially less income than you have been making in private practice?

Mr. WELLS. Yes, sir.

Senator LONG. Your wife understands that? [Laughter.]

Mr. WELLS. She raised her eyebrows. [Laughter.]

Senator LONG. Well, it seems to me though people would understand that when they go into this job.

Well, with that understanding, I am willing to vote for you to take the job. If you want to do it, I am willing to give you the opportunity, and wish you luck in it, Mr. Wells.

Mr. WELLS. Thank you, Senator. I consider it a great challenge and a good opportunity for me to practice tax law. Thank you, sir.

The CHAIRMAN. I want to note for the record that the nominee has filed all appropriate financial disclosure statements which the committee has reviewed and found them to be in order.

Senator Baucus.

Senator BAUCUS. No questions. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Wells, I have no questions.

Your record really was exemplary. The FBI brought it in a couple of days ago. You have many, many, many laudatory comments. You are above repute with everyone who commented on you and you are to be congratulated.

Mr. WELLS. Thank you, sir.

The CHAIRMAN. Thank you.

Mary Jo, it is good to have you with us.

Mr. WELLS. I appreciate that, sir.

The CHAIRMAN. Thank you.

We will stand in recess until 10 o'clock when we will start on the trade bill. And I hope we will be able to send out Mr. Wells' nomination.

[Whereupon, at 9:41 a.m., the hearing was concluded.]

65-140 (17)